

05-14-03

DAE/H

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket No. AM100249)

In re Application of:	)	Appln. No.: 10/039,383
	)	Confirmation No.: 3951
HSIEN-JUE CHU <i>et al.</i>	)	Customer No.: 25291
	)	Group Art Unit: 1645
Filed: December 17, 2001 via 37 C.F.R. § 1.10	)	Examiner: S. Devi
January 8, 2002 per date of receipt	)	
	)	
For: IMPROVED MYCOPLASMA	)	
HYOPNEUMONIAE BACTERIN VACCINE	)	

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Dear Sir:

Transmitted herewith in the above-referenced patent application are the following items:  
(1) Petition To Correct Filing Date Under 37 C.F.R. § 1.10(d) with attachments; (2) Affidavit of Gil Grieder; (3) Affidavit of Terry Mancuso and (4) Associate Power of Attorney.

The Commissioner is hereby authorized to charge the petition fee of \$130.00 and any additional fees, or credit overpayment, to Deposit Account No. 01-1300. A duplicate copy of this letter is provided for billing purposes.

Respectfully submitted,

WYETH

Date: May 13, 2003

By: Anne M. Rosenblum  
Anne M. Rosenblum  
Attorney for Applicants  
Registration No. 30,419

FILING BY EXPRESS MAIL UNDER 37 C.F.R. § 1.10

This correspondence and the documents identified hereinabove are being deposited with the U.S. Postal Service on May 13, 2003 to be delivered by the "Express Mail Post Office to Addressee" service under Mailing Label Number EU730403118US addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Anne M. Rosenblum  
Anne M. Rosenblum

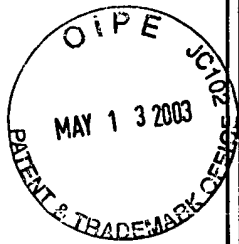
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MAY 16 2003

OFFICE OF PETITIONS

ANNE M. ROSENBLUM ATTORNEY AT LAW

163 DELAWARE AVENUE • SUITE 212 • DELMAR, NEW YORK 12054 • TELEPHONE: (518) 475-0611



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket No. AM100249)

In re Application of: ) Appln. No.: 10/039,383  
) Confirmation No.: 3951  
HSIEN-JUE CHU *et al.* ) Customer No.: 25291  
) Group Art Unit: 1645  
Filed: December 17, 2001 via 37 C.F.R. § 1.10 ) Examiner: S. Devi  
January 8, 2002 per date of receipt )  
)  
For: IMPROVED MYCOPLASMA )  
HYOPNEUMONIAE BACTERIN VACCINE )

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Adjustment date: 06/03/2003 CKHLOK  
05/15/2003 AWONDAF1 00000035 011300 10039383  
01 FC:1460 130.00 CR

PETITION TO CORRECT FILING DATE UNDER 37 C.F.R. § 1.10(d)

Dear Sir:

Applicants respectfully petition the Commissioner under 37 C.F.R. § 1.10(d) to accord the above-referenced patent application a filing date of December 17, 2001, which is the date the application had been deposited with the United States Postal Service (hereinafter referred to as "USPS") by Express Mail. The petition further respectfully asks that the Assignment, which was enclosed with the patent application and recorded on Reel/Frame Nos. 012484/0243, be accorded a recordation date of December 17, 2001.

Applicants exercised reasonable care in filing the patent application and the accompanying papers in the U.S. Patent and Trademark Office on December 17, 2001, fully complied with the requirements of 37 C.F.R. § 1.10 and followed usual corporate policies involving Express Mail packages. As the evidence will show to Applicants' detriment, the USPS incorrectly omitted the "date-in" on the Express Mailing label and failed to return same to Applicants.

On or about October 9, 2002, in-house patent counsel realized that the application had inadvertently been given a filing date of January 8, 2002 instead of the true filing date of December 17, 2001 entered in Applicants' records and written on all correspondence filed in the Office. Patent Counsel Barbara Renda filed the patent application. Her secretary at the time, Ms. Karen Reilly, who no longer works for Wyeth, apparently did not notice the stamped receipt date

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05/15/2003 AWONDAF1 00000035 011300 10039383  
01 FC:1460 130.00 CH

- 1 -

ANNE M. ROSENBLUM ATTORNEY AT LAW  
163 DELAWARE AVENUE • SUITE 212 • DELMAR, NEW YORK 12054 • TELEPHONE: (518) 475-0611

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND				
1 Date of Request: <u>6/2/03</u>		2 Serial/Patent # <u>10/039,388</u>		
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
<input type="checkbox"/>	Filing			\$
<input type="checkbox"/>	Amendment			\$
<input type="checkbox"/>	Extension of Time			\$
<input type="checkbox"/>	Notice of Appeal/Appeal			\$
<input checked="" type="checkbox"/>	Petition	8	5/13/03	\$ 130
<input type="checkbox"/>	Issue			\$
<input type="checkbox"/>	Cert of Correction/Terminal Disc.			\$
<input type="checkbox"/>	Maintenance			\$
<input type="checkbox"/>	Assignment			\$
<input type="checkbox"/>	Other			\$
		7 TOTAL AMOUNT OF REFUND		\$ 130
10 REASON:		8 TO BE REFUNDED BY:		
<input type="checkbox"/>	Overpayment	Treasury Check		
<input type="checkbox"/>	Duplicate Payment	Credit Deposit A/C #:		
<input checked="" type="checkbox"/>	No Fee Due (Explanation):	9	0	0000
<div style="text-align: center; font-size: 1.2em;">Rule 10</div>				
11 REFUND REQUESTED BY: <u>PC TABB</u>				
TYPED/PRINTED NAME: <u>PC TABB</u>		TITLE: <u>Petition</u>		
SIGNATURE: <u>[Signature]</u>		PHONE: <u>703 308 0763</u>		
OFFICE: <u>PC TABB</u>				
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****				
APPROVED: <u>[Signature]</u>		DATE: <u>6/3/03</u>		

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

of January 8, 2002 when the postcard was returned to the file. The case was then transferred to Senior Patent Attorney Adley Mandel sometime in February or March of 2002 for prosecution and preparation of a further related case. Dr. Mandel did not notice the discrepancy in filing dates until after the Official Filing Receipt was received and reviewed. Because the wrong filing date of January 8, 2002 was initially assumed to be a mere result of incorrectly entered data on the Filing Receipt, a Request for Corrected Filing Receipt was then filed in the Office on October 25, 2002 to correct the filing date. The Office mailed a Response to Request for Corrected Filing Receipt - Application Filing Date on November 6, 2002 notifying Applicants that the Office could not comply with the request because a copy of the Express Mailing label was not enclosed with the request. Shortly after receipt of the Office's response, the file copy of the relevant Express Mailing label was sought but could not be located anywhere. A full investigation into plausible reasons for the wrong filing date and the handling of the Express Mail on December 17, 2001 ensued.

Upon subsequent investigation, it was determined that several different packages mailed to the U.S. Patent and Trademark Office via Express Mail from three on-site attorneys, using three different secretaries, on December 17, 2001 had been given the date of receipt by the U.S. Patent and Trademark Office, ranging from December 28, 2001 to January 8, 2002, instead of the USPS "date-in" entry. None of those Express Mail receipts has been found. The USPS has no record of any of the Express Mailing label numbers. It was also ascertained that the "Express Mail" Corporate Account Mailing Statement has only one Express Mail deduction from the account for December 17<sup>th</sup> but none of the Express Mailing label numbers from the numerous pieces of correspondence in question. In fact, these packages were never charged to the Corporate Account at all, not even for regular postage. The only conclusion that could be drawn from so many Express Mail packages going astray and being delivered late is that the USPS had mishandled the packages. Around late December 2002, it was finally realized that the U.S. Patent and Trademark Office had based the filing date of the present application on the date of actual receipt in view of the omission of the "date-in" entry and mishandling by the USPS.

Further investigation proceeded in an attempt to figure out why the USPS at the New Jersey receiving Post Office had possibly ignored so many Express Mailing labels on December 17, 2001, why the labels did not show a "date-in" entry, why no one along the route would have

noticed that the receipts may have been contained inside the original labels, why the packages had not been promptly delivered the next day after deposit and why there had been no USPS record of delivery. The undersigned attorney confirmed that the online USPS Track & Confirm records, which are maintained for two years, showed no information along the package's route to the U.S. Patent and Trademark Office and then proceeded to confer with several USPS staff at many different locations.

Although the precise series of events at the time of deposit on December 17, 2001 is not known, it is understood that in December of 2001, the Express Mailing label numbers were not scanned into the computer records in the local New Jersey Post Offices. Rather, the labels were gathered and each one entered into the computer system by hand. Thereafter, the receipt would be mailed back to the customer if the customer had not waited for the receipt. Had the Express Mail packages in question been underneath other postage-metered mail in a bin of corporate outgoing mail, they may have by-passed the front window's steps of being individually entered into the computer system and they may have been rushed directly to the distribution centers without entry into the Express Mail records. Plus, USPS staff has suggested that because the USPS hires a number of temporary, part-time employees in December each year to handle the influx of holiday mail, they often do not know or appreciate how to process Express Mail packages properly.

Also at that point in time, unfortunately, many usual USPS routes to the U.S. Patent and Trademark Office had been altered due to the anthrax situation; several Distribution Centers, like the Trenton Processing and Distribution Center in New Jersey, were closed; mail was being re-routed or sterilized; and delivery of Express Mail packages to the U.S. Patent and Trademark Office was being significantly delayed.

It has eventually been learned that the D.C. Post Office facility handling the Office mail did not resume scanning the Express Mailing labels to indicate date of receipt in their facility or delivery to the addressee in the computer records until February of 2002. In December of 2001, all of the Express Mail was still being sent to the Brentwood facility to be sterilized. Upon the mail's return from the sterilizing process, the USPS delivered the decontaminated mail to the Federal agencies without scanning. For quite a few months, including that particular month of December in 2001, they did not have the standard equipment for scanning because they were

working under temporary conditions outside of their building, just trying to get the mail delivered to the agencies. It is therefore logical why the delivery of the Express Mail package for the filing of the present patent application in the U.S. Patent and Trademark Office was substantially delayed beyond December 18, 2001 and why there is no computer record of the deposit as Express Mail.

Applicants are now promptly filing this petition in satisfaction of 37 C.F.R. § 1.10(d)(1) after it has been sufficiently established that the Office has accorded the filing date of January 8, 2002 due to the omission by the USPS through no fault of Applicants.

Pursuant to the requirements of 37 C.F.R. § 1.10(d)(2), the number of the Express Mailing label was properly placed on the transmittal form for filing the above-referenced patent application in the U.S. Patent and Trademark Office as well as submitting the Assignment to the Office for recordation (a true copy of the first page of the transmittal form is attached hereto as "Exhibit A"). The Certificate of Mailing Under 37 C.F.R. § 1.10 evidences the intent to deposit the package, which contained the complete patent application and filing fee, with the U.S. Postal Service on December 17, 2001 in an envelope as "Express Mail Post Office to Addressee" under Express Mailing Label Number EL 783017014 US and properly addressed to the Commissioner for Patents, Box PATENT APPLICATION, Washington, D.C. 20231.

Further proof of the items being sent by Express Mail is evidenced by the Best Practices policy in the corporate Patent Law Department, which mandates that all correspondence to the U.S. Patent and Trademark Office should use Express Mail to obtain the same filing date as the actual date of receipt by the Office (a true copy of the March 13, 2001 seminar manual relating to this corporate policy is attached hereto as "Exhibit B"). Therefore, it is more likely than not that the application was filed by Express Mail pursuant to corporate policies.

Insofar as the last requirement of 37 C.F.R. § 1.10(d)(3) is concerned, the patent application was deposited as Express Mail prior to the last scheduled pickup on the requested filing date of December 17, 2001. Since the Express Mailing label number is altogether missing from the Express Mail Corporate Account Mailing Statement, the online USPS Track & Confirm records and the validating search done by the Postmaster of the New Jersey district where the deposit of the application in question (and two other pieces of correspondence that are the subject of another Petition under 37 C.F.R. § 1.10) had originated, the fact of omission shows that it is

plausible and not unlikely that the package was deposited by the last scheduled pickup on December 17, 2001 (a true copy of the December statement, the Tracking record and a letter from the Postmaster are attached hereto as "Exhibit C," "Exhibit D" and "Exhibit E," respectively). Otherwise, the Express Mailing label number would have been entered and recorded on the subsequent day of December 18, 2001, which did not happen.

Furthermore, the present application had a priority date of December 19, 2000 from the provisional Application No. 60/256,637, and the deadline for filing the nonprovisional application was December 19, 2001. Even if the Express Mail deposit had inadvertently missed the last scheduled pickup, the application would still have been timely filed on December 18, 2001 as long as the USPS properly handled the Express Mail package. However, it is more probable than not that this application was deposited in a timely manner on the date certified, *i.e.*, December 17, 2001.

Moreover, the fact that the USPS mishandled several Express Mail packages on the same day provides significant objective evidence to establish that the requested filing date of December 17, 2001 was the true date that the patent application was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. This fact gives extraordinary circumstances to warrant granting the petition in favor of Applicants.

Attention is respectfully drawn to the accompanying Affidavit of Gil Grieder, the corporate Mailroom Supervisor, who coordinates the daily Express Mail routine in order to have the Express Mail packages brought to the local Post Offices during normal business hours. He testifies that he strictly enforces his policy of maintaining the mailroom's 3:00 p.m. deadline. If any package is brought after that time, the packages are returned to the secretary to change the date of certification to correspond to the proper day of mailing to the U.S. Patent and Trademark Office. In view of the mailroom policy, it is more likely than not that the application had been deposited as Express Mail prior to the last scheduled pickup on December 17, 2001.

Attention is also respectfully drawn to the accompanying Affidavit of Terry Mancuso. Ms. Mancuso, the current secretary of Patent Counsel Barbara Renda, testifies that, as a general rule based on Ms. Renda's instructions, she takes Express Mail packages to the corporate mailroom early in the morning, well before the 3:00 p.m. deadline. Thereafter, on the same day as mailing the package, she promptly enters the item and the Express Mailing label number into the

computer Postcard Log. In view of her usual procedures and the copy of the Postcard Log, it is more likely than not that the written file record had been made immediately after the patent application was brought to the corporate mailroom, thus corroborating that the application and accompanying papers were deposited as Express Mail prior to the last scheduled pickup on December 17, 2001.

The clear and convincing evidence proves the substantial likelihood that the application had been deposited with the USPS as Express Mail on December 17, 2001, that the omission of the "date in" was the fault of the USPS and that Applicants took reasonable care to ensure that the filing of the application complied with the statute governing Express Mail.

Should the Petition Office require any further information, the staff is invited to contact the undersigned attorney.

Applicants pray that this petition be considered in a favorable light and granted.

Respectfully submitted,

WYETH

Date: May 13, 2003

By: Anne M. Rosenblum  
Anne M. Rosenblum  
Attorney for Applicants  
Registration No. 30,419

FILING BY EXPRESS MAIL UNDER 37 C.F.R. § 1.10

This correspondence is being deposited with the U.S. Postal Service on May 13, 2003 to be delivered by the "Express Mail Post Office to Addressee" service under Mailing Label Number EU730403118US addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Anne M. Rosenblum  
Anne M. Rosenblum



Commissioner for Patents  
Box PATENT APPLICATION  
Washington, DC 20231



Docket No: AM100249  
Patent

NEW APPLICATION FOR TRANSMITTAL

Transmitted herewith for filing is the patent application of the following Inventor(s):

Hsien-Jue CHU  
Wumin LI  
Zhichang XU;

For: **IMPROVED MYCOPLASMA HYOPNEUMONIAE BACTERIN VACCINE.**

1. Papers enclosed which are required for a filing date under 35 CFR 1.53(b):

- ☒ Pages of specification – 25 pages
- ☐ Sequence Listing – pages on:
  - ☐ CD Rom or CD-R (2 copies); or
  - ☐ paper
- ☒ Pages of claims – 3 pages
- ☒ Page(s) of abstract – 1 pages
- ☐ Sheets of drawing – pages
  - ☐ Formal
  - ☐ Informal

2. Additional papers enclosed

- ☒ Information Disclosure Statement
- ☒ Form PTO-1449
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☐ Computer Readable Form of Sequence Listing
- ☐ Declaration Under 37 CFR 1.821(f)
- ☐ Application Data Sheet
- ☐ Other:

3. Declaration

- ☒ Enclosed and executed by all inventor(s)
- ☐ Not enclosed or not executed by all inventor(s)

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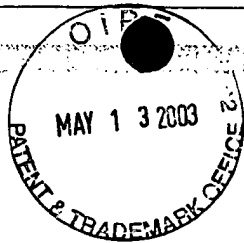
**CERTIFICATE OF MAILING 37 CFR §1.10**

I hereby certify that this paper and the documents referred to as enclosed therein are being deposited with the United States Postal Service on the date written below in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EL783017014US addressed to the Commissioner for Patents, Box PATENT APPLICATION, Washington, DC 20231.

12/17/01  
Date

Karen L. Reilly

Exhibit A



## Prosecution

- ✓ Use Express Mail for all correspondence
  - Actual receipt by USPTO is date used for patent term adjustment calculations
- ✓ To ensure Docketing gets all official correspondence, use as mailing address

American Home Products Corporation  
Patent Law Department  
Five Giralda Farms  
Madison, NJ 07940

03/13/2001

Best AHP Practices

7

**RECEIVED**

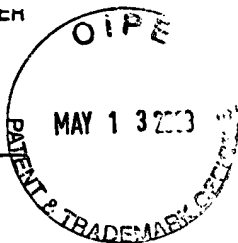
MAY 16 2003

**OFFICE OF PETITIONS**

Exhibit B



UNITED STATES POSTAL SERVICE®

EXPRESS MAIL CORPORATE ACCOUNT  
MAILING STATEMENT

PAGE: 1

ACCOUNT NO:

PERIOD: 12/01/01 - 12/28/01

DATE	CHARGE BACK	LABEL NUMBER	ORIG ZIP	DEST ZIP	ADJ # REF *	POSTAGE	FEES		DEPOSITS	WITH-DRAWALS	CDA LEG
							PICKUP	DELIVERY			
BEGINNING BALANCE:						1,235.40					
11/27/01		EL909160375US	07999	08906		12.45					
11/30/01		EL783016787US	07999	22202		12.45					
12/03/01		EL909157892US	07961	22202		12.45					
12/03/01		EL909160401US	07999	08543		12.45					
12/04/01		ET203691495US	07961	07083		12.45					
12/06/01		EL783017031US	07999	22202		12.45					
12/07/01		EL909159023US	07961	22202		16.25					
12/07/01		EL909159037US	07961	22202		16.25					
12/11/01		EL909157756US	07961	22202		16.25					
12/11/01		EL909157795US	07961	22202		16.25					
12/11/01		EL909157800US	07961	22202		16.25					
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12/14/01		EL909160432US	20898	20006		12.45					
12/17/01		EL909159059US	07961	20231		12.45					
12/19/01		EL909301152US	07961	04605		12.45					
12/21/01		EL783016610US	07961	22202		12.45					
12/21/01		EL909157725US	07961	20231		12.45					
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12/22/01		EL909159920US	07470	20231		12.45					
12/23/01		EH578831906US	94999	95415		12.45					
12/27/01		EL909159173US	07039	20231		16.25					
12/28/01		EL783016645US	07961	20231		12.45					
SUB-TOTAL:						425.95					
(A) TOTAL CHARGES:						425.95	0.00	0.00			
(B) TOTAL ADJUSTMENTS (#):						0.00	0.00	0.00			
(C) TOTAL REFUNDS (*):						0.00	0.00	0.00			
TOTAL (A + B - C):						425.95	0.00	0.00			
ENDING BALANCE:						809.45					

Exhibit C



## Track & Confirm

### Delivery Status

You entered EL78 3017 014U S

There is no record of that item. If it was mailed recently, information may not yet be available. Please try again later.

#### Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)



POSTAL INSPECTORS  
Preserving the Trust

[site](#) [map](#) [contact us](#) [government services](#)

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Exhibit D

From the desk of  
Dennis M. Allocco  
Postmaster



April 8, 2003

Anne M Rosenblum, Esq.  
163 Delaware Avenue  
Suite 212  
Delmar, NY 12054

Re: Wyeth Corp. Express Mail

Dear Anne,

As discussed in our telephone conversation of 4-7-03, I have conducted an electronic search for any/all information relative to the tracking of Express Mail pieces that are in question.

Specifically, the pieces are known as:

EL 909160066 US

EL 909159893 US

EL 783017014 US

The results of this search indicated that there is no information available regarding delivery, acceptance, or travel times.

While this information was previously known, it should be understood that during the period of time in which the pieces were sent, the destination zip code (US Patent Office) was greatly impacted by the Anthrax situation that occurred.

While continuing to function as effectively as possible, it is not unlikely that these pieces were adversely affected and were delayed in being received. While this cannot be proven definitively, this is my best-educated theory for delay. Hopefully this information will assist you in your efforts to have the pieces accepted and considered timely.

Submitted,

A handwritten signature in cursive script that reads "Dennis M. Allocco".

Dennis M. Allocco  
Postmaster

150 RIDGEDALE AVE.  
MORRISTOWN, NJ 07960-9998  
(973)-539-5890  
FAX (973)-539-1845

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MAY 16 2003

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Exhibit E



THAT directly after I bring an Express Mail package to the corporate mailroom and drop off the Official file with docketing personnel, I return to my desk and enter the information from my "chronological" copy of the postcard receipts into the computer Postcard Log for Ms. Renda on the same day that the package is mailed to the U.S. Patent and Trademark Office including the date sent and the Express Mailing Label number (see the attached true copy of the pertinent portion of the Postcard Log of Barbara L. Renda showing the entries that were made on or around December 17, 2001 by the previous secretary, Ms. Karen Reilly, in connection with this case);

FURTHER AFFIANT SAYETH NOT.

Dated this 21<sup>st</sup> day of April, 2003,

By Terry Mancuso  
Terry Mancuso

ACKNOWLEDGEMENT

STATE OF NEW JERSEY     )  
COUNTY OF MORRIS     ) ss.:

On this 21<sup>st</sup> day of April, 2003, before me personally came TERRY MANCUSO, known to me, who, duly sworn by me, did depose and acknowledge to me that she signed the foregoing affidavit.

(Seal)

Claire Brueno  
Notary Public

CLAIRE BRUENO  
Notary Public, State of New Jersey  
No. 2010245  
Commission Expires April 11, 2006

Page 2 of 2

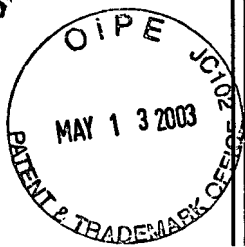
**RECEIVED**  
MAY 16 2003  
OFFICE OF PETITIONS

**BLR POSTCARD LOG**  
1/98- current



CASE NO.	DOCUMENT SENT TO PTO	DATE SENT	DATE REC'D	Date Express Mail Receipt Received	Express #
		8/7/02	08-19-02	8/12/02	EV100596166 08-08-02
		8/2/02	8/13/02	8/8/02	EV100596170
		7/17/02		7/18/02	EV100596311
		4/2/02		4/8/02	EL909158601
		12/17/01	1/25/02		EL783017014
AM100249	New application	7/19/01	8/2/01		
		7/2/01			
		6-22-01			
		4/18/01	5-25-01	6-26-01	
		4/6/01		4-23-01	
		3-29-01	4-2-01	*	
		3-28-01			
		2-28-01	3-5-01		
		2-14-01	2-21-01	2-21-01	
		2-14-01	2-21-01	2-21-01	
		1-19-01	2-21-01	2-21-01	
		1/8/01	2-21-01		
		1/5/01	1/17/01	1/17/01	





IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket No. AM100249)

In re Application of:	)	Appln. No.: 10/039,383
	)	Confirmation No.: 3951
HSIEN-JUE CHU <i>et al.</i>	)	Group Art Unit: 1645
	)	Examiner: S. Devi
Filed: December 17, 2001 via 37 C.F.R. § 1.10	)	
January 8, 2002 per date of receipt	)	
For: IMPROVED MYCOPLASMA	)	
HYOPNEUMONIAE BACTERIN VACCINE	)	

Commissioner for Patents  
Washington, D.C. 20231

AFFIDAVIT OF GIL GRIEDER

Dear Sir:

I, GIL GRIEDER, who after first being duly sworn, deposes and says:

THAT I have been employed in the corporate mailrooms at various sites of American Cyanamid Company, which was acquired by American Home Products Corporation, now known as Wyeth, from about November of 1978 to present date;

THAT I have been in the present corporate location of the Patent and Trademark Law Department in Florham Park, New Jersey as Supervisor of Mail Services since February 4, 2002;

THAT my mailroom duties include, but are not limited to, maintaining a mail tray for outgoing regular mail, Express Mail packages and the like from the law department, and temporarily storing any Express Mail packages each day;

THAT it has been my usual procedure to accept only the Express Mail packages left in the mailroom's mail tray no later than 3:00 p.m. and to hand back any packages beyond the deadline;

THAT, as a typical daily routine, a driver comes from another corporate location, picks up all outgoing mail and packages from my mailroom location by approximately 3:30 p.m. and takes them directly to the U.S. Post Office in Convent Station, New Jersey or Madison, New Jersey; the Post Office staff signs and enters the Express Mailing label numbers off each package by hand into the computer at the front window; the driver obtains an Express Mail receipt for each package and brings the receipts to the mailroom; and the receipts are thereafter returned to the law department for their files;

RECEIVED

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MAY 16 2003

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OFFICE OF PETITIONS

THAT Wyeth maintains a prepaid corporate account with the Post Office; the Post Office staff manually enters the information of each mailing into their computer by scanning the bar codes on the Express Mailing labels; the scanned information is processed; and the postage cost of each mailing is then debited from the prepaid corporate account;

THAT I had been informed that several Express Mail packages were sent to the U.S. Patent and Trademark Office on December 17, 2001 but the postage of only one Express Mail package got billed to the company on that date;

THAT I researched the Express Mailing label numbers of several of the Express Mail packages that were not billed to the company, including Express Mailing Label Number EL 783017014 US, but none appeared in my records, the computer records in the Express Mail Office or the computer records at the local Post Offices;

THAT the package sent to the U.S. Patent and Trademark Office under Express Mailing Label Number EL 783017014 US was never charged any postage fees from the U.S. Postal Service for Express Mail or regular mail;

FURTHER AFFIANT SAYETH NOT.

Dated this 9 day of MAY, 2003,

By *Gil Grieder*  
Gil Grieder

ACKNOWLEDGEMENT

STATE OF NEW JERSEY )  
COUNTY OF MORRIS ) ss.:

On this 9<sup>th</sup> day of May, 2003, before me personally came GIL GRIEDER, known to me, who, duly sworn by me, did depose and acknowledge to me that he signed the foregoing affidavit.

(Seal)

*Catherine J. Mancuso*  
Notary Public

CATHERINE T. MANCUSO  
MY COMMISSION EXPIRES  
02/08/06

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